IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.16 OF 2005

Gajanan B. Jagtap. ..Petitioner.

Vs.

Sandu Brothers Pvt. Ltd. ..Respondent Co.

Mr.A.L.Latnekar for the Petitioner.

Mr. B.P. Colobawala i/by Medekar &Co. for the Respondent.

CORAM : A.M. KHANWILKAR, J.
DATED : 30/6/2005

P.C.:

1. Heard counsel for the parties. Perused the pleadings.

2. It is seen that there is serious dispute regarding the liability of the respondent company to pay the amount as claimed by the petitioner. The respondent company has given details on affidavit as to what extent the respondent was liable to pay to the petitioner towards the dues. According to the petitioner, he is entitled to receive Rs.1,41,885/- from the respondent on the date of the institution of the petition. Whereas, according to the respondent company the total liability does not

exceed sum of Rs.75,250/- to be paid to the petitioner. The respondent has disputed regarding monthly cash allowance as claimed by the petitioner as well as interest. As is obvious, that the claim of the petitioner is seriously disputed and cannot be termed as acknowledged debt of the respondent company, I see no reason to take recourse of winding up action against the respondent company. Even while dismissing this petition, in view of the fair stand taken on behalf of the respondent comapny, respondent is directed to deposit sum of Rs.75,250/- in this court within four weeks from today. That amount will stand transferred to the suit account as and when the petitioner decides to take recourse to that remedy. Irrespective of deposit to be made in this court in terms of the aforesaid directions, it will be open to the respondent company to file cross claim in the proposed suit. If the petitioner fails to file any suit within eight weeks from today and obtain appropriate directions for transfer of the amount deposited by the respondent in this court, it will be open to the respondent to apply for withdrawal of the said amount, which application will be considered on its own merits. Petition disposed of.

(A.M. KHANWILKAR,J.)